

#### **IC 35-33.5-4**

##### **Chapter 4. Procedures Regarding Intercepted Communications**

#### **IC 35-33.5-4-1**

##### **Limitations; mandatory assistance to accomplish interception; compensation**

Sec. 1. (a) A court may not authorize interception under a warrant or an extension for a period longer than is necessary to achieve the objective of the warrant or extension. A warrant and each extension may authorize interception for not more than fourteen (14) days. A court that issues a warrant or an extension shall order that the authorized interception must:

- (1) occur within three (3) days after the court issues the warrant or extension;
- (2) be conducted in a manner that minimizes the interception of a communication that is clearly irrelevant to the investigation of a designated offense; and
- (3) terminate upon completion of the authorized objective or within fourteen (14) days after the interception begins, whichever occurs first.

(b) A court may grant not more than three (3) extensions.

(c) A warrant or an extension may direct that a person immediately furnish an applicant all information, facilities, and technical assistance within that person's control necessary to accomplish the interception with a minimum of interference with the services that the person is furnishing to the person whose communication is to be intercepted. The applicant shall compensate a person furnishing facilities or technical assistance to the applicant at the prevailing rates.

*As added by P.L.161-1990, SEC.3.*

#### **IC 35-33.5-4-2**

##### **Progress reports to court**

Sec. 2. Whenever a warrant or an extension is issued under this article, the court shall order that reports be submitted to the court indicating the progress that has been made toward the authorized objective and whether continued interception is necessary. The court may establish the times when a report is required.

*As added by P.L.161-1990, SEC.3.*

#### **IC 35-33.5-4-3**

##### **Inventory to party of terminated warrant or extension; information available to person whose communications have been intercepted; postponement of inventory services**

Sec. 3. (a) Within sixty (60) days after the termination of a warrant or an extension, the court shall cause to be served upon each person from whom communication was to be intercepted and upon any other party to an interception whom the court determines it is in the interest of justice to serve, an inventory that includes notice of the following:

(1) The date that the application for the warrant or extension was submitted.

(2) The date on which the warrant or extension was granted.

(3) The time during which the interception was authorized.

(4) Whether the type of communication specified in the warrant was intercepted during the authorized time.

(b) The court may make available for inspection, to any person whose communications have been intercepted under a warrant issued under this chapter and who makes a request, any part of the applications, warrants, extensions and recordings that the court determines to be in the interest of justice. On an ex parte showing of good cause to the issuing court, the serving of the inventory required by this section may be postponed.

(c) If a party moves the court for postponement of service of the inventory required under subsection (a) on the grounds that secrecy is essential, the moving party shall:

(1) submit the motion to the court in writing or by transcription; and

(2) attach to the motion a statement of reasons for the party's belief that secrecy of the documents is essential.

*As added by P.L.161-1990, SEC.3.*

#### **IC 35-33.5-4-4**

##### **Suppression of evidence; basis**

Sec. 4. (a) Upon a motion to suppress evidence arising from a warrant, a court may suppress the contents of or evidence derived from an interception based on:

(1) the grounds that the communication was intercepted in violation of this article;

(2) the grounds that the warrant or extension under which the communication was intercepted is insufficient on the face the warrant or extension;

(3) the grounds that the interception was not made in conformity with the warrant or extension;

(4) the grounds that a material defect, such as the failure to comply with the requirements that limit the use of authorized interceptions, exists in the application, the warrant, or the process of executing the warrant; or

(5) any other grounds that are a basis for suppressing the evidence.

(b) A court may not suppress the contents of or evidence derived from an interception if the motion to suppress is based on an immaterial defect in the application, the warrant, or the process of executing the warrant.

*As added by P.L.161-1990, SEC.3.*

#### **IC 35-33.5-4-5**

##### **Motion to suppress; information or evidence available to aggrieved person; appeal of granted motion**

Sec. 5. (a) If a court grants a motion to suppress under this article,

the contents of the interception or evidence derived from the interception are considered to have been obtained in violation of this article. The court, upon the filing of the motion by an aggrieved person, may make available for inspection to the aggrieved person, or the person's attorney, any part of the interception or evidence derived from the interception that the court determines to be in the interest of justice.

(b) In addition to any other right to appeal, the state may appeal from an order granting a motion to suppress made under this section if the prosecuting attorney certifies to the court granting the motion that the appeal is not taken for purpose of delay. The state must file the appeal in accordance with the rules adopted by the Indiana supreme court.

*As added by P.L.161-1990, SEC.3.*